

LEGISLATURE OF NEBRASKA
NINETY-SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 100

Introduced by D. Pederson, 42; Engel, 17; Matzke, 47; Schrock, 38

Read first time January 7, 1999

Committee: Judiciary

A BILL

1 FOR AN ACT relating to the Nebraska Probate Code; to amend sections
2 30-2201 and 30-24,125, Revised Statutes Supplement, 1998;
3 to provide for and change provisions relating to transfer
4 of real and personal property; to harmonize provisions;
5 and to repeal the original sections.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 30-2201, Revised Statutes Supplement,
2 1998, is amended to read:

3 30-2201. Sections 30-2201 to 30-2902 and sections 2 and
4 3 of this act shall be known and may be cited as the Nebraska
5 Probate Code.

6 Sec. 2. (a) Thirty days after the death of a decedent,
7 any person claiming as successor to the decedent's interest in real
8 property in this state may file or cause to be filed on his or her
9 behalf, with the register of deeds office of a county in which the
10 real property of the decedent that is the subject of the affidavit
11 is located, an affidavit describing the real property owned by the
12 decedent and the interest of the decedent in the property. The
13 affidavit shall be signed by all persons claiming as successors or
14 by parties legally acting on their behalf. The affidavit shall
15 state:

16 (1) the value of the decedent's interest in all real
17 property in the decedent's estate located in this state does not
18 exceed twenty-five thousand dollars. The value of the decedent's
19 interest shall be determined from the value of the property as
20 shown on the assessment rolls for the year in which the decedent
21 died;

22 (2) thirty days have elapsed since the death of the
23 decedent;

24 (3) no application or petition for the appointment of
25 personal representative is pending or has been granted in any
26 jurisdiction;

27 (4) the claiming successor is entitled to the real
28 property by reason of the homestead allowance, exempt property

1 allowance, or family allowance, by intestate succession, or by
2 devise under the will of the decedent;

3 (5) the claiming successor has made an investigation and
4 has been unable to determine any subsequent will; and

5 (6) no other person has a right to the interest of the
6 decedent in the described property.

7 (b) The recorded affidavit shall also be recorded in any
8 other county in this state in which the real property of the
9 decedent that is the subject of the affidavit is located.

10 Sec. 3. (a) A successor named in an affidavit under
11 section 2 of this act shall have the same protection as a
12 distributee who has received a deed of distribution from a personal
13 representative as provided in section 30-24,106.

14 (b) A purchaser of real property from or lender to a
15 person named as a successor in an affidavit under section 2 of this
16 act shall have the same protection as a person purchasing from or
17 lending to a distributee who has received a deed of distribution
18 from a personal representative as provided in section 30-24,108.

19 Sec. 4. Section 30-24,125, Revised Statutes Supplement,
20 1998, is amended to read:

21 30-24,125. (a) Thirty days after the death of a
22 decedent, any person indebted to the decedent or having possession
23 of tangible personal property or an instrument evidencing a debt,
24 obligation, stock, or chose in action belonging to the decedent
25 shall make payment of the indebtedness or deliver the tangible
26 personal property or an instrument evidencing a debt, obligation,
27 stock, or chose in action to a person claiming to be the successor
28 of the decedent upon being presented an affidavit made by or on

1 behalf of the successor stating that:

2 (1) the value of ~~the entire~~ all of the personal property
3 in the decedent's estate, wherever located, less liens and
4 encumbrances, does not exceed twenty-five thousand dollars;

5 (2) thirty days have elapsed since the death of the
6 decedent;

7 (3) no application or petition for the appointment of a
8 personal representative is pending or has been granted in any
9 jurisdiction; and

10 (4) the claiming successor is entitled to payment or
11 delivery of the property.

12 (b) A transfer agent of any security shall change the
13 registered ownership on the books of a corporation from the
14 decedent to the successor or successors upon the presentation of an
15 affidavit as provided in subsection (a).

16 (c) In addition to compliance with the requirements of
17 subsection (a), a person seeking a transfer of a certificate of
18 title to a motor vehicle shall be required to furnish to the
19 Department of Motor Vehicles a statement of the value of any motor
20 vehicle intended to be transferred under this section made by the
21 county assessor of the county of the residence of the decedent.
22 The affidavit and statement showing applicability of this section
23 and compliance with the requirements of this section shall be
24 sufficient proof under section 60-111, to authorize the department
25 to issue a new certificate of title.

26 Sec. 5. Original sections 30-2201 and 30-24,125, Revised
27 Statutes Supplement, 1998, are repealed.